

November 19, 2023

The Honorable Jessica G. L. Clarke  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Via Electronic Filing**

Re: SeanPaul Reyes v. City of New York, 23-cv-06369

Your Honor,

Plaintiff SeanPaul Reyes submits this response to Defendant's motion for an extension of time to answer. (Doc. 46.)

Defendant claims that the reason it has not answered is that its counsel is not familiar with the federal rules of civil procedure. (Doc. 46.) But its counsel was notified by the court of its failure to answer on November 2. (Doc 28 at 21 n.2, "The Court notes that the City's deadline to answer, move or otherwise respond to the Complaint was August 29, 2023. As of yet, no response has been filed.") Defendant notes that it wrote to Plaintiff on November 9 but omits the fact that it was responding to Plaintiff's November 6 request for an answer. And in that email, Defendant wrote. "I believe I can have the answer filed by tomorrow," November 10, now ten days ago. (Ex. 1.)

In the meanwhile, Defendant filed a 23-page motion for emergency relief on November 7, the day after being reminded about the answer. (Reyes v City of New York, No. 23-7640, 2d. Cir. ("Appeal,") Doc. 8.) That motion requested emergency relief from this Court's November 7 order and sought a response by noon the day after it was filed. Plaintiff met that deadline. (Appeal, Doc. 14.)

On Thursday, November 16, six days after it had promised to answer, and fourteen days after this Court had noted an answer was late, Defendant filed its reply in the Second Circuit. (Appeal Doc. 18.)



If Plaintiff's counsel can respond to Defendant's "emergency" motion in eighteen hours (most of them overnight), Defendant can draft an answer in eighteen days. It has refused to do so for reasons of its own. Plaintiff seeks assurance that Defendant's delay tactics are not once again strategic.

Rather than litigate the merits of a default, Plaintiff would prefer to proceed with the litigation itself. In light of the holiday this week, Plaintiff is not available for a scheduling conference prior to Monday, November 27 but is available on that date. Plaintiff proposes that, should Defendant answer by the end of the day on November 20, 2023, a scheduling conference be held on November 27 or as soon as thereafter is practicable.<sup>1</sup> Plaintiff proposes that the proposed scheduling order attached as Exhibit 2 be ordered at that conference. If Defendant does not answer by the end of the day on November 20, Plaintiff will have no alternative but to file for a default motion once the clerk issues a certificate.

Sincerely,



Andrew Case  
LatinoJustice PRLDEF

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<sup>1</sup> Defendant's counsel did not respond to Plaintiff's counsel's email providing availability for a 26(f) conference. (Ex. 1)